

Message Text

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ORIGIN OES-07

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DRAFTED BY MMC:REISENBUD/OES/ENP/EN:HSPIELMAN:EF
APPROVED BY OES/ENP:LGRANT
L/OES:MS. HOINKES (SUBS)
CEQ: MR. TALBOT (DRAFT)
INTERIOR: MR. BOHLEN (DRAFT)
NOAA/NMFS: MR. ANDREWS (DRAFT)
NOAA: MR. BREWER (DRAFT)
OES/OFA: MR. SCULLY (DRAFT)
OES: MRS. MINK (SUBS)

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TO AMEMBASSY CANBERRA NIACT IMMEDIATE

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E.O. 11652: NA

TAGS: SENV, IWC

SUBJECT: CANBERRA INTERNATIONAL WHALING COMMISSION (IWC)
CONFERENCE

1. AGENCIES HAVE CONFERRED IN ANTICIPATION OF POSSIBLE
DECISION BY SCIENTIFIC COMMITTEE TO RECOMMEND ZERO QUOTA
FOR U.S. ESKIMO TAKING OF BOWHEAD WHALES.

2. U.S. DELEGATION SHOULD ATTEMPT TO NEGOTIATE BEST
RESULTS POSSIBLE WITH REFERENCE TO CONSIDERATIONS IN FOL-
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LOWING PARAGRAPHS, AS WELL AS OTHERS THAT MAY BE APPRO-
PRIATE.

3. UNDER NO CIRCUMSTANCES SHOULD USG ATTEMPT TO INFLUENCE
DETERMINATIONS OF SCIENTIFIC COMMITTEE. INTEGRITY OF
COMMITTEE SHOULD BE FULLY RESPECTED AND MAINTAINED.

4. IF POSSIBLE, WE WOULD HOPE THAT U.S. DEL MIGHT INFLUENCE DRAFTING OF ANY RESOLUTION BASED ON SCIENTIFIC COMMITTEE'S DECISION. THIS WOULD AIM AT LANGUAGE WHICH WOULD RECOGNIZE ROLE WHICH THE HUNT PLAYS IN NATIVE PEOPLE'S CULTURE. WOULD ENCOURAGE EVERY EFFORT TO MOVE TOWARDS THE SCIENTIFIC COMMITTEE'S DECISION, AND REPORT

RESULTS TO THE NEXT IWC MEETING.

5. IF A RECOMMENDATION FROM THE COMMITTEE FOR ZERO BOWHEAD QUOTA IS PRESENTED FOR VOTE IN PLENARY, U.S. SHOULD ABSTAIN WHILE STATING FOLLOWING:

(A) USG BELIEVES IT MOST IMPORTANT TO GIVE GREAT WEIGHT TO SCIENTIFIC COMMITTEE DECISIONS;

(B) USG IS COMMITTED TO SOLVE PROBLEM; AND

(C) REGULATION OF ESKIMO TAKE POSES COMPLICATED LEGAL AND SOCIAL ISSUES INVOLVING SUBSISTENCE FOOD NEEDS OF ESKIMOS, WHICH USG HAS NOT HAD TIME FULLY TO ADDRESS.

6. FOLLOWING ADDITIONAL ITEMS ARE FYI FOR BACKGROUND AND CORRIDOR DISCUSSIONS:

(A) ANY PRECIPITOUS REDUCTION SUCH AS AN IMMEDIATELY EFFECTIVE ZERO QUOTA WILL ADVERSELY AFFECT ESKIMO PEOPLE DEPENDENT ON WHALES FOR SUBSISTENCE, AND, IF BIOLOGICAL EVIDENCE INDICATES THAT KILL MUST BE REDUCED TO ZERO, LIMITED OFFICIAL USE

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PHASED REDUCTION WOULD BE DESIRABLE.

(B) U.S. IS FACED WITH SERIOUS DILEMMA UNDER DOMESTIC LAW. CURRENT LEGAL VIEW IS THAT SCHEDULE PROVISIONS WILL NOT AUTOMATICALLY SUPERSEDE DOMESTIC LAW. DOMESTIC LAW REQUIRES THAT ANY LIMITATION ON ESKIMO TAKING BE TESTED IN FORMAL HEARINGS. SUCH LIMITATION MUST BE FOUND DEFENSIBLE AS "NECESSARY" TO ACHIEVE PURPOSES OF MARINE MAMMAL PROTECTION ACT (MMPA), OR, IN TERMS OF ENDANGERED SPECIES ACT (ESA), THAT TAKING "MATERIALLY OR NEGATIVELY AFFECTS" BOWHEADS. UNDER EITHER APPROACH, PROPOSED LIMITATIONS WILL BE SUBJECTED TO RIGOROUS SCRUTINY.

(C) ANY UNCERTAINTIES IN DATA CONCERNING STRUCK AND LOST AND KILLED AND LOST AS WELL AS CURRENT POPULATION SIZE WILL MAKE IT VERY DIFFICULT TO DEFEND ZERO QUOTA UNDER DOMESTIC LAW DURING HEARINGS.

(D) REJECTION OF ZERO QUOTA IN U.S. COURT, IF IT IS

DETERMINED TO BE UNSUPPORTED BY BIOLOGICAL EVIDENCE WHEN
COMPARED TO SOME OTHER CONSERVATIVE LIMIT, WILL MAKE IT
MORE DIFFICULT FOR U.S. TO GAIN COOPERATION OF ESKIMOS
OR TO IMPOSE REGULATIONS.

(E) USG SEEKS SCIENTIFIC ADVICE AND BIOLOGICAL BASIS
FOR ESTABLISHING LIMITS WITH EMPHASIS ON EVIDENCE OF
BIOLOGICAL PARAMETERS WHICH FORM BASIS FOR RECOMMENDED
LEVEL OF TAKING SO THAT U.S. CAN DEFEND THAT LEVEL AND
AVOID EMBARRASSMENT TO USG AND SCIENTIFIC COMMITTEE.
END FYI. VANCE

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Message Attributes

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Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
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